

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE SOUTHERN DISTRICT OF TEXAS

3 VICTORIA DIVISION

4 UNITED STATES OF AMERICA § CASE NO. 6:16-CR-077-1
5 VERSUS § CORPUS CHRISTI, TEXAS
6 RAMON DE LA CRUZ, JR. § WEDNESDAY,
§ OCTOBER 12, 2016
§ 2:02 P.M. TO 3:40 P.M.

7 MISCELLANEOUS / DETENTION HEARING

8
9 BEFORE THE HONORABLE B. JASON B. LIBBY
10 UNITED STATES MAGISTRATE JUDGE

11 APPEARANCES:

12 APPEARANCES: SEE NEXT PAGE
13 ELECTRONIC RECORDING OFFICER: JUDITH F. ALVAREZ
14 CASE MANAGER: KENDRA BLEDSOE
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STEVE GREENWELL

By Mr. Martinez

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By Mr. Guerrero

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IMA GARCIA

By Mr. Guerrero

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REBECCA SAENZ

By Mr. Guerrero

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By Mr. Martinez

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EXHIBITS:

MarkedOfferedReceived

Defendant's Exhibit 1

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1 CORPUS CHRISTI, TEXAS; WEDNESDAY, OCTOBER 12, 2016; 2:02 PM.

2 THE COURT: Good afternoon. Please be seated.
3 Let's call the case.

4 THE CLERK: Yes, sir.

5 The Court calls CRV-16-77, United States versus
6 Ramon DeLaCruz.

7 May I have appearances, please?

8 MR. MARTINEZ: Hugo Martinez, United States. Good
9 afternoon, Your Honor.

10 THE COURT: Afternoon.

11 MR. RAMIREZ: Your Honor, G. Allen Ramirez and
12 Fabian Guerrero, for the Defendant, Ramon DeLaCruz. He's
13 present and ready.

14 THE COURT: Okay.

15 MR. GUERRERO: Good afternoon, Judge.

16 THE COURT: Good afternoon.

17 Mr. DeLaCruz, give me a moment to get my paperwork
18 together. It will take just a moment.

19 We were last in Court as you recall because your
20 lawyer filed a Motion to Reopen the Detention Hearing. You
21 had previously waived the Detention Hearing without
22 prejudice. That means that your lawyer was free to file a
23 Motion to Reopen the Detention Hearing, and he did that, and
24 you were set for a Detention Hearing last week.

25 However, I think the day before your detention

1 hearing or thereabouts, the Government, that is, the federal
2 prosecutor who is in charge of your case, filed a Motion to
3 Continue the Detention Hearing until a possible conflict of
4 interest has been determined. We were in Court, I think,
5 last Friday and all of this was brought to the attention of
6 the Court and I continued today, and I ordered the lawyers
7 to confer to see if they could come to some agreement about
8 whether or not there is a conflict of interest and then
9 report to me today with an update on your conference about
10 the conflict of the interest.

11 So, let me start with you, Mr. Martinez. What's
12 the Government's position on the conflict of interest or
13 what needs to be done today?

14 MR. MARTINEZ: Yes, Your Honor, just to bring to
15 the Court's attention, the case has been presented to a
16 Grand Jury, and it hasn't been returned as a True Bill.

17 It is the Government's position that if there is
18 still a conflict of interest in this particular case,
19 Ms. Patti Booth's case, she is present in the courthouse,
20 but she is in another courtroom. After discussing the issue
21 with her, it is her opinion that there is a conflict of
22 interest that needs to be heard before the District Judge.

23 THE COURT: Before the District Judge, okay.

24 And then, what's the defense position this conflict
25 of interest, Mr. Ramirez?

1 MR. RAMIREZ: Judge, I haven't been given, even
2 though I have spoken to Ms. Booth, twice, I have not been
3 given specifics with reference to my conflict. I was given
4 one specific with reference to a police officer who was
5 indicted a couple of years ago and sentenced out of -- from
6 the Rio PD. He worked with HIDTA actually. Ms. Booth
7 indicated that I had represented him in a divorce, which was
8 not accurate. I had represented him on a paternity suit
9 where, after the DNA test came back, it was negative, and so
10 he went his way, and I went my way. Obviously, there is no
11 conflict of interest there, in that particular instance.

12 With reference to any other conflict, I have not
13 been given specifics so it's impossible for me to represent
14 to the Court whether or not I'm conflicted. I don't know.

15 THE COURT: I understand. Kendra, was this motion
16 that was filed the Motion to Continue the Detention Hearing,
17 was that filed under seal?

18 THE CLERK: Yes, sir.

19 THE COURT: It was. Hugo, has the defense been
20 provided with this Motion to Continue the Detention Hearing?

21 MR. MARTINEZ: I don't know, Your Honor.

22 MR. RAMIREZ: I have, Your Honor.

23 THE COURT: Okay, all right, so I'm always
24 concerned about letting the cat out of the bag, if there are
25 matters that have been filed under seal, but I think for

1 purposes of the Record and for Mr. DeLaCruz, this is the
2 information that has been provided to the Court.

3 The Government has alleged in their Motion to
4 Continue the Detention Hearing that was filed last week.
5 That attorney, Mr. Ramirez, has previously represented one
6 of the cooperating co-conspirators in a state civil case. I
7 take that probably is the divorce case, the paternity case?

8 MR. RAMIREZ: Yes, sir.

9 THE COURT: And then further, it says Mr. Ramirez
10 has represented another cooperating co-conspirator, CC #2 in
11 a related case, and then it doesn't provide any further
12 details about what the related case is. It could be related
13 to the paternity but I really doubt it, so it's probably
14 related, at least according to the Government, the
15 underlying alleged criminal activity that's involved
16 allegedly in this case.

17 And then the Government further goes on to say that
18 in this case the Government intends to present evidence that
19 cooperating co-conspirator #1, that's the person who was
20 involved in the paternity dispute, that that person was
21 directly involved in the criminal acts of the Defendant here
22 before me, Ramon DeLaCruz, and others in a large-scale
23 marijuana trafficking conspiracy.

24 And so, the Government is, at least, proposing that
25 it intends to call this person as a witness in the criminal

1 case.

2 Second, it says the Government intends to present
3 the direct testimony of cooperating co-conspirator #2
4 concerning the aggravated kidnapping and murder of an
5 individual. And then it says:

6 "If this case were to go to trial, there would be
7 testimony from an additional cooperating co-conspirator
8 #3, who would testify that the Defendant Ramon DeLaCruz
9 disposed of the weapon that was used during this
10 criminal episode."

11 That's the substance of what the proposed or
12 possible conflict of interest is, but for purposes of an
13 arraignment and a detention hearing today, Mr. Martinez, is
14 the government going to call any of these cooperating co-
15 conspirators to testify at a detention hearing?

16 MR. MARTINEZ: Not, this afternoon, Your Honor.
17 The Government's position that the conflict of interest has
18 to be worked out before we move toward any detention hearing
19 for legal reasons.

20 I don't have any issue with moving forward on the
21 arraignment. The issues as to whether or not these
22 gentlemen are conflicted out is something that Judge Rainey
23 will have to decide and then I believe, assuming Judge
24 Rainey says that there is no conflict, then we would be
25 ready to move forward on the Detention Hearing, and if he

1 says, there is, then obviously we do plan to be at that.

2 THE COURT: Okay, well, I'm going to hear the
3 detention hearing today because I believe that Mr. DeLaCruz
4 should have this issue litigated and then I don't know what
5 I'm going to do on the Detention Hearing. If I deny it, and
6 Judge Rainey determines that there is a conflict of
7 interest, and new lawyers are appointed, I'll make sure that
8 it's clear that at least from my order that Mr. DeLaCruz
9 could move to reopen the Detention Hearing. If I were to
10 grant the Defendant's request for a bond, there would be no
11 prejudice to Mr. DeLaCruz. If there were later determined
12 to be a conflict of interest, I think Mr. DeLaCruz is right
13 to have his detention hearing heard, is an important
14 consideration for the Court, but I'm getting ahead of
15 myself, so let me just go through a few things and just talk
16 to Mr. DeLaCruz.

17 MR. RAMIREZ: Judge, may I address the Court?

18 THE COURT: You may.

19 MR. RAMIREZ: And out of an abundance of
20 precaution, the Government, and this may have just been, he
21 misspoke, but he mentioned whether these gentlemen are
22 disqualified. Mr. Guerrero, there has been no allegation
23 that he is in anyway disqualified. He is co-counsel with me
24 on this case, legally. He actually made the first
25 appearance with Mr. DeLaCruz, so out of an abundance of

1 precaution, what I can do is I can step back and allow
2 Mr. Guerrero to handle the Detention Hearing and the
3 Arraignment, and avoid any appearance of impropriety until
4 this qualification hearing is held, but there has been no
5 allegation that he has been disqualified.

6 MR. MARTINEZ: May I address the Court, Your Honor?

7 THE COURT: You may.

8 MR. MARTINEZ: My statements were intentional, and
9 it is the Government's position that if one lawyer is
10 disqualified, he can't go out and hire another lawyer to get
11 around the conflict.

12 MR. GUERRERO: No, Judge, I can address it. Let me
13 address that, Your Honor.

14 THE COURT: Yes, sir? We'll go back and forth. I
15 will give you each an opportunity to talk.

16 MR. MARTINEZ: So, I don't think the taint of the
17 conflict is going to be resolved by simply hiring another
18 lawyer to come in and handle some of the procedures, so it's
19 the Government's position that if one is disqualified, they
20 are both disqualified, and that is something we are ready to
21 move forward on before the District Judge. I understand the
22 Court's ruling in reference to moving forward with the
23 Detention Hearing, but I just wanted to address that issue
24 on the Record, so we are all on the same page on that.

25 THE COURT: Okay, you've stated that. First off,

1 well, I said I'd give you an opportunity, so go ahead. Go
2 ahead, Mr. --

3 MR. GUERRERO: Your Honor, it didn't happen the way
4 it was just outlined by the Government. I was hired by the
5 family, Mr. Ramon DeLaCruz's wife, to assist in the case,
6 and I appeared with Mr. Ramon DeLaCruz and I handled legal
7 matters.

8 At a point, Ramon DeLaCruz decided to hire,
9 independent of any consultation with me, a very capable
10 counsel, Allen Ramirez, I would reference it. Mr. Ramirez
11 needed to visit with Ramon DeLaCruz, and I suggested rather
12 than withdraw, I said, it's going to make it easier on
13 everybody, you just filed a notice of appearance as co-
14 counsel, and you can go ahead and have access to the client
15 and not anticipating in any manner that this would
16 transpire, what's just occurring right now.

17 But it did not happen as it being described.

18 THE COURT: Okay, all right, understood. And
19 you've had your opportunity to state that, and I think I
20 understand the facts and Mr. Martinez's position may be,
21 though, as I understand it that having co-counsel on the
22 case from the Government's perspective does not resolve this
23 potential conflict of interest that Mr. Ramirez may have in
24 the case.

25 MR. MARTINEZ: That's correct, Your Honor.

1 THE COURT: And so, from the Government's
2 perspective, what their position is, is they still are going
3 to need this issue litigated and having co-counsel on the
4 case does not resolve the case for, you know, all purposes,
5 and I understand that position.

6 With regard to the Arraignment and the Detention
7 Hearing, first off, as it stands today, who is the lead
8 counsel for Ramon DeLaCruz?

9 MR. RAMIREZ: I am, Your Honor.

10 THE COURT: Okay, you are the lead counsel. And
11 Mr. Guerrero is the co-counsel. And so what Mr. Ramirez has
12 suggested is that Mr. Guerrero take the reins and handle the
13 Arraignment and the Detention Hearing with Mr. Ramirez not
14 being, you know, I guess, directly involved in these
15 preliminary pretrial proceedings.

16 Do you understand that request, Mr. DeLaCruz?

17 DEFENDANT DE LA CRUZ: Yes, Your Honor.

18 THE COURT: And so, basically, Mr. Guerrero would
19 like to take over as lead counsel for today's purposes for
20 purposes of your Detention Hearing and your Arraignment.
21 Are you in agreement with that?

22 DEFENDANT DE LA CRUZ: Yes, Your Honor.

23 THE COURT: Okay, and then, I don't want to know
24 the substance of your communication with your lawyers, but
25 have you talked with your lawyers in private about what a

1 conflict of interest is?

2 DEFENDANT DE LA CRUZ: Briefly, Your Honor.

3 THE COURT: Okay, briefly. Well, I'm going to talk
4 to you today in a little bit more detail about that. I'm
5 not going to decide if there is a conflict of interest in
6 your case, but I think it is always appropriate for the
7 Court to advise you what your rights are with regard to
8 these proceedings and these procedures, and it's appropriate
9 for you to be appropriately informed so that you can make
10 intelligent decisions on your case and who you want your
11 lawyer to be.

12 First off, lawyers are governed to some extent by
13 ethical rules and in Texas, they are the Texas Disciplinary
14 Rules of Professional Conduct and there is a rule that
15 states that a lawyer shall not represent a person, which
16 would be you, if the representation of you involves a
17 substantially related matter in which your interests are
18 materially and directly adverse to the interests of another
19 client of the lawyer or the lawyer's firm.

20 Or, a lawyer shall not represent a person if the
21 representation of that person reasonably appears to become
22 adversely limited by the lawyers or the law firm's
23 responsibility to another client or to a third person, or by
24 the lawyers or law firm's own interests.

25 And so that is one of the rules relating to a

1 conflict of interest and the reason for that, there are many
2 reasons, but one of the reasons is the lawyer owes a duty of
3 loyalty to the person that he or she is representing. So
4 that when you stand in Court with your lawyer, and that when
5 your lawyer stands with you, your lawyer can look out for
6 your interests without being concerned about the interests
7 of another client or former client so that you know when you
8 walk into Court and in your pretrial proceedings your lawyer
9 can use all of the tools at his disposal to zealously
10 represent you without having to hold back his punches for
11 concerns about hurting another client.

12 The Government thinks that your lawyer,
13 Mr. Ramirez, may have a loyalty to another client, which
14 could prevent his zealous representation of you. I'm not
15 going to decide today whether or not there is, but I wanted
16 to make sure that you understand what this issue is about
17 and in that regard, there are some things that Courts have
18 directed or applied some guidance for the lower Court and
19 the District Courts to go over with you.

20 First off, as I informed you last week, under the
21 Constitution and the laws of the United States, and
22 specifically the Sixth Amendment, you have the right to the
23 effective assistance of counsel, and if you can afford a
24 lawyer, you can hire the lawyer of your choice, but if you
25 cannot afford a lawyer, you have the right to request a

1 Court-appointed lawyer, and if you qualify the Court would
2 appoint a lawyer to represent you at no cost to you, and I'm
3 not getting involved in deciding whether you should ask for
4 a Court-appointed lawyer or hire another lawyer but it's
5 important you understand what your rights are because
6 sometimes people come to Court and they have a lawyer and
7 they don't know that they at least have the option of asking
8 the Court to terminate that lawyer's representation and
9 appoint a lawyer, so I'm telling you specifically that if
10 you were not satisfied with your lawyers, you could fire
11 your lawyers and request Court-appointed counsel.

12 Do you understand?

13 DEFENDANT DE LA CRUZ: Yes, Your Honor.

14 THE COURT: Okay. And I need to advise you of some
15 potential -- I need to give you some practical examples of
16 what these potential conflicts of interest might be. When a
17 lawyer has two clients who might be involved in the same
18 activity, this dual representation or former representation
19 may inhibit or prevent a lawyer from conducting an
20 independent legal investigation in support of your case.

21 For example, if your lawyer were to have learned
22 something from a former client, that information could have
23 been learned through a confidential communication and the
24 lawyer has a duty to keep communications between a client
25 secret, and so then your lawyer could be in a position of

1 not being able to tell you something that he learned about
2 your case, or to use it in your case. For example, this
3 apparently does not apply in your case, but the classic
4 example is a former client tells his lawyer where the murder
5 weapon is, and then that weapon if it were found could
6 somehow be used to the benefit of the other client, but if
7 the lawyer got that information from another client, he
8 could be prevented from telling you about it or presenting
9 that evidence. That's just one example is the duty of
10 loyalty and confidentiality to a former client.

11 Also, I don't have any idea if the Government would
12 even consider doing this in the case, but the Government has
13 the ability to offer Defendants and witnesses and other
14 persons immunity, that is a formal immunity to prosecution,
15 and it's typically in exchange for testimony or other
16 cooperation, but a lawyer could be inhibited from zealously
17 pursuing immunity on behalf of one client if that grant of
18 immunity was conditioned on the Defendant cooperating
19 against the former client.

20 And so, a lawyer may feel inhibited about pursuing
21 immunity if it would hurt another client. Same thing with
22 the cooperation. This is the one that comes up all the
23 time. The prosecution always offers Defendants an
24 opportunity to cooperate but that cooperation is usually not
25 limited and it usually has to be against all persons who are

1 involved in a case.

2 And so, if you were in a position of -- and I don't
3 know that you are, but if you were in a position of
4 cooperating against other persons for a reduced sentence, if
5 one of those other persons were a former client of your
6 lawyer, that could put your lawyer in a position of not
7 being able to help you pursue that.

8 And the concern would be that, we hear this all the
9 time in the Courts, is that "my lawyer didn't want me to
10 cooperate because it would hurt his other client." And, I
11 don't know that that would be the case here, but that's the
12 concern is that if helping one client cooperate hurts the
13 interests of another client, there can be a conflict of
14 interest.

15 And sometimes in a case, the best defense is
16 everybody else is guilty, but I'm innocent, and that
17 requires the Defendant's lawyer to go after each of the
18 other persons in an alleged conspiracy in an effort to
19 exonerate himself, so sometimes the lawyer has to go in and
20 zealously go after each and every one of the other persons
21 who might be involved in the case, and if one of those other
22 persons is a former client, a lawyer might be less zealous,
23 or the concern is that the lawyer might be zealous in going
24 after the other people in an effort to protect you.

25 I think I told you about this other potential

1 conflict last week, is that when a person testifies, you
2 want your lawyer to take the gloves off, or at least have
3 the ability to take the gloves off and to go after that
4 person who is testifying, especially if his testimony is
5 damaging to you. The Government has represented that they
6 have these cooperating co-conspirators who are going to
7 testify against you. The Government believes that
8 Mr. Ramirez represented them.

9 If Mr. Ramirez, not today, but at a later trial,
10 Mr. Ramirez is put in a position of having to cross-examine
11 these cooperating Defendants, you don't want him to hold his
12 punches. You want him to use everything at his disposal to
13 go after them, and if he's represented those persons
14 previously as their lawyer, that presents a problem for him,
15 it may present a problem for him in being able to zealously
16 represent them to kind of draw to this to a, or to make a
17 point here, and I'm not asking you to answer this. This is
18 a rhetorical question.

19 But how would you feel if in six months from now
20 you were a witness in a case and Mr. Ramirez or Mr. Guerrero
21 had a new client and they were called upon to cross-examine
22 you. If you are sitting in that witness stand and your
23 former lawyer is now cross-examining you, that presents a
24 real problem because what about all those things that you
25 told your lawyer in confidence in getting ready for your old

1 case, and what about your lawyer looking out for your
2 interests, and how can this person who was your lawyer a few
3 months ago, now be trying to discredit you and to hurt you
4 on the stand, and sometimes it happens that a person
5 testifies so poorly that they end up being prosecuted for
6 perjury or for making a false statement, and if that were to
7 happen based on the cross examination of a person's former
8 lawyer, it would present real concerns about the fairness of
9 the judicial proceedings.

10 So, the duty to a client and the problems of cross-
11 examining a former client present many pitfalls. Sometimes
12 evidence that helps one client may hurt another client, and
13 then a lawyer sometimes has a conflict about whether or not
14 to disclose that or to use that evidence at trial.

15 And also there are concerns, post-trial. Sometimes
16 a person does not want to cooperate initially but if the
17 trial does not turn out as they had hoped, at the end of
18 trial, sometimes a person decides that they want to
19 cooperate, and at that point, number one, it might be too
20 late. It may or may not be too late to pursue cooperation
21 depending on what happened at that the trial and the
22 position of the prosecution, but also in post-trial
23 negotiations, these same conflicts of interest can arise for
24 the same reasons that I've discussed.

25 I'm sure that there are many other ways that a

1 potential conflict of interest could arise in these types of
2 situations, but do you understand the types of conflicts of
3 interest that I'm trying to explain to you today?

4 DEFENDANT DE LA CRUZ: Yes, Your Honor.

5 THE COURT: And are you aware that a potential
6 conflict of interest may exist in your case?

7 DEFENDANT DE LA CRUZ: Yes, Your Honor.

8 THE COURT: And do you understand the potential
9 hazards to your defense by continuing with Mr. Ramirez as
10 your lawyer?

11 DEFENDANT DE LA CRUZ: Yes, Your Honor.

12 THE COURT: And do you understand that you can hire
13 another lawyer or if you are unable to do so, you could
14 appoint or you could request that I appoint a lawyer to
15 represent you in your defense?

16 DEFENDANT DE LA CRUZ: Yes, Your Honor.

17 THE COURT: And I'm not going to ask you for
18 purposes of your entire case about whether or not you waive
19 your conflict of interest because I believe that matter is
20 more appropriately resolved by the District Judge unless he
21 refers it to me, but for purposes of your arraignment today,
22 and your detention hearing today, do you waive your right to
23 have a conflict-free representation of these proceedings
24 today?

25 DEFENDANT DE LA CRUZ: Yes, Your Honor.

1 THE COURT: Okay. And for the Record, there may be
2 a conflict of interest that's out there, and that issue will
3 be resolved by the District Court, but for purposes of the
4 Arraignment and the Detention Hearing, I believe that those
5 matters can be resolved without a risk of this potential
6 conflict of interest harming the interests of the Defendant,
7 Mr. DeLaCruz.

8 Now, I previously asked if it's your choice to
9 allow Mr. Guerrero to fill in for Mr. Ramirez for your
10 Arraignment and your Detention Hearing.

11 Is that still your request?

12 DEFENDANT DE LA CRUZ: Yes, Your Honor.

13 THE COURT: Okay, having said all of that, I find
14 that there is no present and actual conflict of interest
15 that would prevent me from conducting the Arraignment and
16 the Detention Hearing today with Mr. Guerrero proceeding as
17 Mr. DeLaCruz's lead counsel.

18 Before we do that, Mr. DeLaCruz, do you have any
19 questions about anything that we've talked about today?

20 DEFENDANT DE LA CRUZ: No, Your Honor.

21 THE COURT: Okay. All right. We're going to start
22 by having your Arraignment. I'm not going to ask you any
23 questions about your case, but I do need to start by having
24 you placed under Oath, so if you would please place your
25 right hand to be sworn.

1 (Defendant sworn.)

2 DEFENDANT DE LA CRUZ: I do.

3 THE COURT: Kendra, I need the Indictment. No, I
4 have it right here. I'm sorry. It's in here.

5 You've been placed under oath, and if you provide
6 false answers to any of the questions I ask, those answers
7 could be used against you and the prosecution for perjury or
8 for making a false statement.

9 What is your true and correct name?

10 DEFENDANT DE LA CRUZ: First name Ramon, last name
11 DeLaCruz, Jr.

12 THE COURT: And Mr. DeLaCruz, how old are you?

13 DEFENDANT DE LA CRUZ: I am 36 years old.

14 THE COURT: How far did you go in school?

15 DEFENDANT DE LA CRUZ: Graduated from high school.
16 12th grade.

17 THE COURT: Okay, and do you read and write
18 English?

19 DEFENDANT DE LA CRUZ: Yes, I do, Your Honor.

20 THE COURT: And have you received a copy of the
21 Indictment in the case?

22 DEFENDANT DE LA CRUZ: Yes, Your Honor, it's right
23 here in front of me.

24 THE COURT: And have you read the Indictment and
25 have you discussed it with your lawyer?

1 DEFENDANT DE LA CRUZ: Briefly, Your Honor.

2 THE COURT: And have you also received a copy of
3 the criminal complaint in your case? That's the Affidavit
4 that sets forth a summary of the alleged facts.

5 DEFENDANT DE LA CRUZ: Yes, Your Honor.

6 THE COURT: Okay. Now, I need to ask a few
7 questions to make sure that you are mentally competent.

8 Have you ever suffered from any type of mental
9 illness?

10 DEFENDANT DE LA CRUZ: No, Your Honor.

11 THE COURT: Have you ever had any serious addiction
12 to narcotic drugs or alcohol?

13 DEFENDANT DE LA CRUZ: No, Your Honor.

14 THE COURT: Are you taking anything today that
15 might cause you to be confused?

16 DEFENDANT DE LA CRUZ: No, Your Honor.

17 THE COURT: Mr. Guerrero, do you believe
18 Mr. DeLaCruz is competent?

19 MR. GUERRERO: Yes, sir. He is, Your Honor.

20 THE COURT: I find him to be so.

21 Mr. Guerrero, does Mr. DeLaCruz waive a formal
22 reading of the Indictment?

23 MR. GUERRERO: Mr. DeLaCruz, I've gone over the
24 Indictment. He wants to waive formal reading of the
25 Indictment. He's intending to enter a plea of not guilty,

1 and we already pretrial dates, and --

2 THE COURT: Okay.

3 MR. GUERRERO: -- everything else.

4 THE COURT: All right, very good.

5 Now, Mr. DeLaCruz, I'm going to summarize the
6 charge for you, but I don't want to know if you committed
7 the offense.

8 The Indictment is the forma accusation charging you
9 with a felony drug trafficking offense, and it alleges that
10 between January 2009 and December 2013, in the Southern
11 District of Texas, you are accused of knowing and
12 intentionally conspiring with other persons to possess with
13 intent to distribute a controlled substance.

14 The Indictment alleges that this violation involved
15 more than 1000 kilograms of marijuana, excuse me, a Schedule
16 I controlled substance. This alleges, a violation of Title
17 21 of the United States Code, Sections 846 and 841.

18 If you are convicted, you face certain minimum and
19 maximum possible punishments. If convicted, there is a
20 mandatory minimum 10 year period of imprisonment, up to
21 lifetime in prison, without probation, parole or a suspended
22 sentence. There is also a maximum possible fine of up to
23 \$10 million, at least five years of supervised release.
24 There is also a mandatory \$100 special assessment, and if I
25 didn't say it, the five years of supervised release could

1 last the rest of your life.

2 Do you understand the minimum and the maximum
3 possible punishment you face, if convicted?

4 DEFENDANT DE LA CRUZ: Yes, Your Honor.

5 THE COURT: And how do you plead, guilty or not
6 guilty?

7 DEFENDANT DE LA CRUZ: Not guilty.

8 THE COURT: Thank you. Your case has been assigned
9 to Senior United States District Judge John D. Rainey. Your
10 case is indicted out of Victoria. All of your proceedings
11 will be before Judge Rainey in Victoria, unless your
12 attorneys notify you otherwise.

13 There is a Scheduling Order that gets me some dates
14 and if I could have the original from one of the parties to
15 go over those dates with Mr. DeLaCruz?

16 (Brief pause in proceedings.)

17 Okay, all right. I have the Scheduling Order.
18 Have you been given a copy of the Scheduling Order,
19 Mr. DeLaCruz?

20 DEFENDANT DE LA CRUZ: Yes, Your Honor.

21 THE COURT: Okay, the Scheduling Order sets some
22 dates and some deadlines for your lawyers to file motions
23 and responses, but it also sets your next Court dates.

24 You have a Final Pretrial Conference before Judge
25 Rainey at the Federal courthouse in Victoria, Texas, on

1 December 5th, 2016, at 10:10 in the morning.

2 And you also have a Jury Trial scheduled for
3 December 7th, 2016, at 9:30 in the morning.

4 Do you understand your Court dates?

5 DEFENDANT DE LA CRUZ: Yes, Your Honor.

6 THE COURT: All right, now on the issue of
7 detention without waiving your objection to my conducting
8 the Detention Hearing, Mr. Martinez do you have any evidence
9 of witnesses or proffers?

10 MR. MARTINEZ: We do, Your Honor. I call a
11 witness.

12 THE COURT: Okay, all right, so Mr. DeLaCruz and
13 counsel if you could have a seat at counsel table, we'll let
14 the Government call its witnesses.

15 MR. MARTINEZ: The United States will call Special
16 Agent Steve Greenwell.

17 (Witness sworn.)

18 THE WITNESS: Yes, ma'am. I do.

19 THE CLERK: Thank you.

20 THE WITNESS: Good afternoon, Judge.

21 MR. MARTINEZ: May I proceed, Your Honor?

22 THE COURT: You may.

23 DIRECT EXAMINATION OF STEVEN GREENWELL

24 BY MR. MARTINEZ:

25 Q Please state your name?

1 A Steven Greenwell.

2 Q How are you currently employed?

3 A I'm a Special Agent with the Department of Homeland
4 Security, Homeland Security Investigations.

5 Q And how long have you been involved in law enforcement?

6 A Approximately 18 years.

7 Q In your career as a law enforcement as law enforcement
8 agent, have you had the opportunity to investigate drug
9 trafficking organizations?

10 A Yes, sir, I have.

11 Q On many, or few occasions?

12 A Many occasions.

13 Q Are you familiar with the Ramon DeLaCruz, Jr., case?

14 A Yes, sir, I am.

15 Q Are you the case agent on the case?

16 A Yes, sir, I am.

17 Q Let me take you back to the beginning of this
18 investigation. This case involves a conspiracy, is that
19 correct?

20 A Yes, sir, it does.

21 Q Can you please tell the Court the dates that the
22 conspiracy spans?

23 A At present, it spans from 2008, beginning of 2008 to
24 the end of 2013.

25 Q And the Government in the Indictment alleged January

1 2009 to on or about December 2013, is that correct?

2 A Correct, yes, sir.

3 Q During the course of this investigation, did you
4 identify an individual by name of Ramon Beltran, Sr.?

5 A Yes, sir, we did.

6 Q And who is Mr. Beltran, Sr.?

7 A He is the head of an organization, what I refer to as
8 the Beltran Drug Trafficking Organization that operates or
9 operated out of Rio Grande City, Texas.

10 Q Did this organization have any connections to drug
11 cartels in the country of Mexico?

12 A Yes, sir, they did.

13 Q With specifically, what cartel?

14 A The Gulf Cartel.

15 Q Is the Gulf Cartel known by law enforcement in the
16 United States as a dangerous cartel?

17 A Yes, sir, they are.

18 Q Are they involved in narcotics trafficking?

19 A Yes, sir, they are.

20 Q Are they involved in kidnapping?

21 A Yes, sir, they are.

22 Q Are they involved in murder?

23 A Yes, sir, they are.

24 Q And during the course of your investigation, did you
25 learn whether or not Mr. DeLaCruz, Jr., was tied in to the

1 Beltran organization?

2 A The investigation has revealed that Mr. DeLaCruz was
3 working directly with individuals that were directly linked
4 to the Gulf Cartel, Gulf Cartel members, yes, sir.

5 Q And was Mr. DeLaCruz, at one point, a law enforcement
6 official?

7 A Yes, sir, he was.

8 Q Where was he employed?

9 A He worked as a Starr County Deputy Sheriff for, I want
10 to say, 13 years and then he worked as a Rio Grande City
11 Police Officer, investigator for a couple of years prior to
12 being arrested.

13 Q When Mr. DeLaCruz was working for this organization,
14 was he also employed as a law enforcement official?

15 A Yes, sir, he was.

16 Q Are there aspects of public corruption involved in this
17 investigation?

18 A Yes, sir.

19 Q Specifically, is there evidence that Mr. DeLaCruz
20 provided the Beltran Drug Trafficking Organization with
21 radios?

22 A He did, yes, sir.

23 Q And what type of radios, are we talking about?

24 A These were two hand-held Motorola radios that were
25 later recovered that had functioning active police

1 frequencies in those radios.

2 Q Are these law enforcement type of radios?

3 A Yes, sir, they are.

4 Q Would this function allow the drug trafficking
5 organization to listen to the communications of law
6 enforcement?

7 A Yes, sir, it would.

8 Q Is that why these radios were so important to the
9 organization?

10 A That is correct.

11 Q In reference to other aspects of public corruption, did
12 Mr. DeLaCruz use his police issued vehicle to assist this
13 drug organization?

14 A Yes, sir. We've uncovered information that indicates
15 Mr. DeLaCruz used his assigned Starr County vehicle at
16 whatever point in the conspiracy that it was, whether it was
17 a Ford F-150 or a Ford Expedition, he used that vehicle
18 while participating in illicit conduct with the Beltran Drug
19 Trafficking organization.

20 Q What specifically would he do?

21 A We have information to indicate that the Defendant
22 would conduct counter surveillance through the highways
23 communicating with Beltran's as well as other members of the
24 drug trafficking organization to notify them of law
25 enforcement presence. He, at least on one occasion that we

1 know, came to the Beltran Ranch and picked up marijuana from
2 the Beltrons that represented payment for some of the
3 services that he had performed, as well as other meetings.
4 There were payments that were made with, between the
5 Beltrons and the Defendant, and other co-conspirators that
6 took place in the presence of Mr. DeLaCruz's patrol vehicle.

7 Q Is it your testimony that Mr. DeLaCruz was, at times,
8 paid by this organization with narcotics?

9 A That is correct, yes, sir.

10 Q Did he assist this organization by falsifying police
11 reports?

12 A That is correct, he did.

13 Q Did he assist this organization by alerting the
14 organization of law enforcement search warrants?

15 A Yes, sir, he did.

16 Q And any specifics in reference to how he assisted them
17 in reference to the search warrants that law enforcement was
18 executing?

19 A Yes, sir. I guess, a specific occasion was
20 October/November of 2011, the Starr County HIDTA, as a
21 result of some observations made by Border Patrol Agents, as
22 well as other law enforcement officials executed a search
23 warrant at the Beltran Ranch in Rio Grande City. We have
24 information that indicates that Mr. DeLaCruz later came on
25 to the ranch in a law enforcement capacity to assist other

1 individuals conducting the search of the ranch and placed a
2 call to Ramiro Beltran, kept his phone in shirt pocket open,
3 with the connection open the entire time the search was
4 taking place so as to reveal to Ramiro Beltran and others
5 the conduct that was occurring on their ranch.

6 Q Did this allow the drug trafficking organization to
7 identify law enforcement agents by face and name?

8 A I'm sure it did, by name, surely. It exposed tactics.
9 It probably exposed radio traffic and that sort of thing,
10 yes, sir.

11 Q Did this place the law enforcement community in danger?

12 A Yes, sir, it did.

13 Q Is there any evidence that you learned in the course of
14 your investigation that Mr. DeLaCruz was involved in what is
15 called ripping of narcotics?

16 A Yes, sir.

17 Q Would you please explain what the ripping of narcotics
18 means first?

19 A Yes, sir. The ripping of narcotics is whereby the
20 organizations will steal loads of dope from other drug
21 trafficking organizations and then sell those loads on their
22 own.

23 Q And did Mr. DeLaCruz do this working under the umbrella
24 of the law enforcement office?

25 A Mr. DeLaCruz did do this as a law enforcement officer

1 and facilitated others in doing the same by staging law
2 enforcement takedowns.

3 Q Are there any cooperating Defendants involved in this
4 investigation?

5 A Yes, sir, there are.

6 Q And are these individuals who have personal knowledge
7 of the inner workings of the Beltran drug trafficking
8 organization?

9 A Yes, sir, they do.

10 Q Are these individuals who have sensitive information
11 and first-hand knowledge of Mr. DeLaCruz's participation in
12 this organization?

13 A Yes, sir, they do.

14 Q From these individuals, did you learn whether or not
15 Mr. DeLaCruz abused narcotics, himself?

16 A It was revealed that at least on one occasion, in a
17 pre-planning for drug rip that Mr. DeLaCruz appeared to be
18 under the influence of narcotics. He was actually giving
19 commands to other individuals as to what they were to do and
20 how they were going about it doing it. It was very erratic
21 behavior and loud shouting that led other individuals to
22 believe that he was under the influence of narcotics.

23 Q During the course of your investigation, did you learn
24 whether or not this organization was involved in the
25 kidnapping and murder of an individual?

1 A During the course of this investigation, we learned
2 that other individuals were involved in a kidnap and murder
3 of individuals in the Rio Grande Valley. Those persons that
4 were involved in that conduct took weapons to the Beltran
5 Ranch and asked that the Beltrons hide those weapons, three
6 rifles, in particular, on the ranch. It was actually three
7 rifles as well as tactical vests, M4 magazines fully loaded
8 with 223 rounds.

9 Once the Beltrons learned that the weapons, what they
10 had been used in, shortly after arrival of the weapons, it's
11 been reported that they called the Defendant, Ramon
12 DeLaCruz, to dispose of the weapons essentially, and
13 six/seven hours later, the Defendant DeLaCruz came to the
14 ranch, took the weapons, questions unasked, took the weapons
15 and disposed of them, provided them to a gun store or
16 something of that nature in the Rio Grande City area.

17 Q Has law enforcement been able to identify and
18 furthermore seize those weapons used in this murder?

19 A No, sir, they have not.

20 Q Are those weapons evidenced in a pending murder
21 investigation?

22 A They are evidence in a -- I don't know if the murder
23 investigation is pending. I do know that the sentencing of
24 some of those individuals that have been convicted are
25 pending.

1 Q Nonetheless, are they evidence used in a murder?

2 A Yes, sir. Absolutely.

3 Q Is there an ongoing investigation by the Department of
4 Homeland Security, in reference to Mr. DeLaCruz's
5 involvement in cocaine conspiracy

6 A There is, yes, sir. We received information that in
7 addition to working jointly with the Beltran organization to
8 smuggle marijuana, to rip marijuana, and smuggle marijuana
9 to provide false reports to cover-loads of ripped marijuana,
10 that the Defendant, Mr. DeLaCruz, also worked with another
11 organization out of the Rio Grande Valley that specializes
12 in the smuggling of cocaine.

13 Q The main principal of the drug trafficking
14 organization, Mr. Ramiro Beltran, Sr., has he been indicted?

15 A No, sir, he has not.

16 Q Has there been a criminal complaint issued seeking his
17 apprehension?

18 A Yes, sir. He was indicted in January of 2016.

19 Q Is there an active warrant for Mr. Beltran?

20 A Yes, sir, there is.

21 Q And is he currently a fugitive from justice?

22 A He is, yes, sir.

23 Q Do you have any information as to his whereabouts?

24 A I believe based on six/seven months of investigation
25 that I've done as well as frankly phone calls that I've

1 received from the fugitive, some of which have taken place
2 in my opinion, to threaten me, I believe he is currently in
3 Mexico.

4 Q So, Mr. Beltran, directly contacted you?

5 A Yes, sir, on several occasions.

6 Q For what purpose?

7 A I think to intimidate me. I think to -- the most
8 recent phone call was, in my opinion, to threaten me.

9 Q And in reference to Mr. Beltran being a fugitive, do
10 you have any evidence to suggest that Mr. DeLaCruz has been
11 in contact with this fugitive?

12 A I do, yes, sir.

13 Q Please tell the Court about that?

14 A At the Defendant's arrest, post-Miranda, he provided us
15 with telephone numbers both for his personal and his work
16 cell telephone. We have issued subpoenas to the carrier of
17 that company and requesting tolls, requesting call record
18 activity for those cell phones for a period of six months,
19 possibly more.

20 The toll record activity from the personal cell phone
21 used by Mr. DeLaCruz indicates that there was a lot of
22 telephone traffic between Mr. DeLaCruz and Jacqueline
23 Beltran, who was Ramiro Beltran's daughter. That call
24 activity focuses on a couple of dates. In particular, April
25 2nd of this year, after Mr. Beltran became a fugitive, there

1 is a lot of call activity between the two cell phones,
2 between Ramon DeLaCruz and Jacqueline Beltran's cell phone.

3 When you look at travel data of Jacqueline Beltran, she
4 is in Mexico at those very times, in April of 2016,
5 specifically April 1st and 2nd of 2016, as well as May of
6 2016, so it's my belief Jacqueline Beltran is 20 years old,
7 maybe, has a husband. It's my belief that the Defendant is
8 calling Jacqueline Beltran as either a go-between to pass
9 information or more accurately, I believe, essentially
10 what's happening is she is passing her phone to her Dad so
11 that the fugitive can talk to the Defendant.

12 Q So, Jacqueline Beltran is in Mexico at the exact same
13 time as Mr. DeLaCruz is calling her phone number?

14 A That's correct, sir.

15 Q And is it your belief that Mr. Beltran, the fugitive,
16 is currently living in the country of Mexico?

17 A That is correct, sir. There is something I would like
18 to add. Following the arrest of Mr. DeLaCruz, a consent
19 search was conducted at the residence, whereby his wife,
20 Mrs. DeLaCruz provided law enforcement officers with consent
21 to search their home. At the bedside of Mr. DeLaCruz, in a
22 trash can was found what I believe to be, I didn't find it
23 myself, but what I was told by other agents, to be Pacer
24 information. That is Court documentation that was printed
25 out to reveal case information about specific cases. In

1 fact, those documentations show Ramiro Beltran's information
2 on them, and it's my belief that he's checking up on
3 Ramiro's case for him so as to pass that information to the
4 fugitive.

5 Q Your mention the Defendant's wife. Does she have any
6 ties to the country of Mexico?

7 A I'm sorry?

8 Q Your mention Mr. DeLaCruz's wife. Does she have any
9 ties to the country of Mexico?

10 A Yes, sir. It is my understanding she has family in
11 Mexico.

12 Q And in reference to the amount of narcotics that
13 Mr. DeLaCruz's conspiracy involves, what is the weight we're
14 talking about here?

15 A We are talking around the range of 60,000 pounds of
16 marijuana.

17 MR. MARTINEZ: Nothing further, pass the witness,
18 Your Honor.

19 THE COURT: Okay. Mr. Guerrero, any cross exam?

20 MR. GUERRERO: Yes, Your Honor, if I may.

21 CROSS-EXAMINATION OF STEVEN GREENWELL

22 BY MR. GUERRERO:

23 Q Agent, I didn't catch your name, sir. What was it?

24 THE COURT: Just to keep in our normal practice
25 here in Corpus Christi, if you would please --

1 MR. GUERRERO: Talk at the podium, Judge?

2 THE COURT: If you would ask questions from the
3 podium?

4 MR. GUERRERO: Absolutely, Judge.

5 THE COURT: Okay.

6 MR. GUERRERO: I apologize.

7 THE COURT: It's okay.

8 BY MR. GUERRERO:

9 Q Agent, I'm sorry, I didn't catch your name?

10 A Yes, it's Steven Greenwell.

11 Q Agent Greenwell, you testified earlier about the
12 Beltran DTO and Mr. Ramon DeLaCruz's contacts with the
13 Beltran DTO. Do you recall that testimony?

14 A Yes, sir.

15 Q Okay, and specifically, you referenced Mr. Beltran, the
16 fugitive. Now, I didn't catch Mr. Beltran, the fugitive's
17 first name. What is his first name?

18 A Ramiro.

19 Q Ramiro.

20 A That's Senior, sir. His son has also been indicted,
21 Ramiro Beltran, Jr.

22 Q And he's in custody, right?

23 A No, sir. He's on bond.

24 Q Okay, now these contacts that you refer to, is this
25 referring to only Mr. Beltran or are there Gulf Cartel

1 contacts that you can specifically refer to that you
2 referenced in your blanket testimony?

3 A These are individuals that were working directly with
4 Gulf Cartel members, Plaza bosses, individuals that were
5 bringing marijuana into the United States.

6 Q But relating directly to Mr. Ramon DeLaCruz, who
7 specifically is he contacting in the Gulf cartel that you
8 are saying is in contact with him?

9 A He is contacting a confidential source of information.

10 Q Okay, so this particular confidential source of
11 information that you are referencing, sir, is that someone
12 that you have as a confidential source that is with the Gulf
13 Cartel, is that what you are trying to say?

14 A Once was, yes, sir.

15 Q Okay. And this contact, is it ongoing or it happened
16 in the past?

17 A I don't understand the question.

18 Q Well, the question is, I mean, you referenced
19 surveillance and you referenced calls by Ramiro Beltran,
20 Sr., but are there calls that you monitored or you've
21 identified where Mr. Ramon DeLaCruz is contacting Gulf
22 Cartel members, you know, in the recent past, as opposed to
23 at the time and places of these particular events, which is
24 in 2010, 2011, 2012, almost four years ago?

25 A Yes, sir. Those contacts would have been at that time,

1 yes, sir.

2 Q At that time?

3 A Yes, sir.

4 Q Are these contacts that are occurring in 2011, 2012,
5 the dates and times that are written up in the Complaint, is
6 that correct?

7 A Yes, sir.

8 Q But related to contacts in the near present?

9 A In the recent --

10 Q In the recent present which you've described
11 April 12th, 2nd, 2016, a Jacqueline Beltran. Are there
12 contacts that you are aware of that my client is making
13 with, as you allege, Gulf Cartel members, Beltran DTO
14 members, are there specific contacts that he's making in the
15 recent past?

16 A Excluding time he has obviously been in custody?

17 Q Obviously.

18 A Okay. I have no information that would indicate to me
19 that the Defendant has had any contact directly with Gulf
20 Cartel members in the recent past. The contacts he had with
21 respect to Jacqueline Beltran was made to illustrate the
22 fact that the Defendant was communicating with a Co-
23 Defendant and fugitive in the case, sir.

24 Q And up to the Beltran contact and I just wanted to talk
25 about, the next thing you spoke about --

1 A Yes, sir.

2 Q -- the two hand-held Motorola radios?

3 A Yes, sir.

4 Q Have those been recovered?

5 A Yes, sir, they have.

6 Q Okay, and those radios that were recovered, who had
7 them in their possession?

8 A They were at the -- they were found at the residence of
9 a Beltran during the consent search pursuant to the
10 execution of an arrest warrant.

11 Q And how is it again that the radios were determined to
12 have been given to the Beltran DTO by ways of Ramon
13 DeLaCruz?

14 A Two-fold, sir. There is currently, out of 13
15 cooperating individuals in this investigation, there's 8 of
16 whom are giving information directly related to the
17 Defendant Ramon DeLaCruz. I don't want to misspeak but with
18 respect to the radios, three or four have directly said that
19 the Defendant, Ramon DeLaCruz, provided those radios to the
20 Beltran organization. In addition to that, we've done
21 research into the radios and note the research of those
22 radios has revealed that the radio was assigned to one
23 particular Deputy at the Starr County Sheriff's Office some
24 time ago.

25 That Deputy, as per her statement, loaned that radio to

1 another Deputy. That Deputy was later in a car accident.
2 The individual that responded to that Deputy in order to
3 watch over his possessions, his vehicle, his Government
4 issued equipment that was in the car, because he had to
5 leave in an ambulance was the Defendant Ramon DeLaCruz, so
6 Ramon DeLaCruz was the last individual to actually come in
7 contact with that radio coupled with the information we have
8 from corroborating sources of information that he gave that
9 radio or radios to the Beltran DTO.

10 Q Just to be clear, the Deputy who had it in his or her
11 possession prior to Ramon DeLaCruz taking over that, that
12 Deputy -- did that Deputy ever report it missing, stolen?

13 A That Deputy reported that she loaned it to the other
14 officer who was later in an accident and then that officer
15 wrote a report that indicated that he had the accident and
16 the Defendant was the last one as far as he knew to see the
17 radio in his vehicle.

18 Q And this occurred, about what time frame? Again, is
19 this an event that occurred in 2011?

20 A Yes, sir, in the far past, yes, sir.

21 Q Far past. Well, the use of the Starr County for
22 counter surveillance, as alleged, that's gleaned off of
23 confidential sources?

24 A Correct, yes, sir.

25 Q Okay, and that again, is that activity that is in the

1 recent past or that activity that again, 2011 and 2012?

2 A Correct, sir. The distant past during the conspiracy,
3 itself.

4 Q Okay. Now, there's allegations that you made and they
5 are also in the complaint about marijuana at the Beltran
6 Ranch. Again, the alleged payment of marijuana to my
7 client.

8 A Yes, sir.

9 Q Now, this is something, again, it occurred, again, in
10 2011, 2012?

11 A Yes, sir, that's correct.

12 Q And this marijuana that was -- the way the Complaint
13 reads, it was paid to Mr. Ramon DeLaCruz as payment for
14 services rendered, I gather?

15 A Yes, sir.

16 Q This is not something that was seized. This is just
17 something you got from a confidential source?

18 A From several, yes, sir.

19 Q Several confidential sources. Did you get it from the
20 confidential source who actually gave him the marijuana or
21 if you are at liberty to say?

22 A I can't recall, sir.

23 Q Okay, so there's no direct evidence of, one, the
24 marijuana, and then a person actually saying, "I gave him
25 the marijuana?"

1 A I do not have that information. I have information
2 that an individual observed that actually occurring.

3 Q Okay, now there's a -- you went through a recitation or
4 an explanation, that is to say, of the falsifying of the
5 police report, assisting in a warrant warnings and that type
6 of information. But that again, that's information or
7 occurrences that occurred in 2011 to 2012?

8 A Yes, sir, in the past.

9 Q Okay, in the past, and you specifically mentioned my
10 client placing a call and having the call, I guess, on while
11 he was actually conducting his assistance of the law
12 enforcement. Did I understand that correctly?

13 A Yes, sir.

14 Q Okay, and that information is obtained from what
15 source, from a confidential source, again?

16 A Multiple confidential sources, yes, sir.

17 Q Have you been able to track the time and place of the
18 marijuana seizure and his phone logs indicate that he did,
19 in fact, do what he is being accused in assisting in this
20 matter?

21 A No, sir, as you have duly indicated, it's so far in the
22 past that there's, you know, it's unknown as to what
23 telephone number was being used at the time.

24 Q Now, the ripping of narcotics, this law enforcement
25 take down, if you remember, and I'm working off of memory,

1 too, but was he, Ramon DeLaCruz working in drug interdiction
2 at that time? Was that part of his tasks?

3 A It's my understanding he was working in the District
4 Attorney's violent crime task force, which is a large
5 umbrella, so it's very possible, yes sir, he was working in
6 counter narcotics, as well as probably a wide variety of
7 other areas.

8 Q So, seizing narcotics or doing raidings or assisting in
9 raidings was just part and parcel of what his assignments
10 were?

11 A Absolutely, yes, sir.

12 Q But your contention is that there was some document
13 altering that occurred in the ripping of narcotics?

14 A Correct, sir.

15 Q And, again, I think for the same time frame, it was
16 back in 2011 and 2012, would that be the time frame? That's
17 the way --

18 A Yes, sir, and possibly in early, mid-2013. Yes, sir.

19 Q Okay, now let's talk about the rifles. That, again, is
20 something that occurred in 2011 and 2012, more or less?

21 A Yes, sir, 2011, it would have been because the
22 magazines were in the HIDTA search warrant that I referred
23 to earlier in which Mr. DeLaCruz reportedly has his cell
24 phone on, they do actually find the magazines, the vests
25 buried in bunkers. The rifles weren't found and the

1 information later suggests why.

2 Q Okay, so weapons were found in a bunker as you describe
3 it but not the murder weapons?

4 A No, sir, not weapons. The tactical vests, magazines
5 loaded with 223 ammunition but no weapons.

6 Q But why is it that you are able to identify this gear
7 that you found is linked to this kidnapping that occurred in
8 Mexico? How is it that the connection is being made? Is it
9 -- go ahead.

10 A It's being made after the fact. What's happened is a
11 result of several investigations including this particular
12 investigation and the research that has been done by the
13 various investigators. We've been able now to link together
14 several different incidents, several different episodes that
15 all have cross-over.

16 Q Okay, now, it's not your assertion though that
17 Mr. Ramon DeLaCruz participated in any violence in Mexico or
18 on this side of the border. Is that your assertion?

19 A No, sir, I didn't -- I think I understood the first
20 part of your question?

21 Q Basically, was he involved, other than to say, other
22 than the allegation being these three weapons were handled
23 by Mr. DeLaCruz and you are asserting that they were
24 disposed by him, you are not saying that he was involved in
25 any acts of kidnapping, murder, things of nature?

1 A I have no information to indicate at this time that
2 Mr. DeLaCruz was involved in the kidnap and murder that I
3 testified to earlier.

4 Q And so, let's go through Mr. Ramiro Beltran, Sr.?

5 A Yes, sir.

6 Q He's a fugitive and he's been indicted, is that
7 correct?

8 A That's correct, sir.

9 Q Okay, is he assisting the Government in any way,
10 Mr. Ramiro Beltran, Sr., is he a confidential source of the
11 Government?

12 A He's currently a fugitive, sir.

13 Q Currently, a fugitive, okay. He's not assisting the
14 Government in any way?

15 A He is currently a fugitive who I believe is in Mexico.

16 Q Okay, now going to the telephone call that you
17 specifically referenced which is April 2nd, 2016, is there,
18 do you-all have any information regarding the content of the
19 conversations that occurred between Jacqueline Beltran and,
20 as you allege, Ramon DeLaCruz?

21 A No, sir. Just to be clear, these weren't actual
22 intercepts. This is toll record data. This is toll record
23 data that shows a tremendous amount of telephone activity
24 between the personal cellular telephone owned by
25 Mr. DeLaCruz and that that is owned and assigned to

1 Jacqueline Beltran, Ramiro's daughter.

2 Q Obviously, there was telephone communication because
3 you referenced it on April 2nd 2016?

4 A Yes, sir. That's what the phone service provider
5 indicates, yes, sir.

6 Q Were there conversations prior to that date, prior to
7 Mrs. Jacqueline Beltran being in Mexico? Were there, does
8 the telephone records indicate telephone traffic between
9 Mr. Ramon DeLaCruz and Jacqueline Beltran?

10 A No, sir, not prior to April 2nd.

11 Q Does it indicate telephone communications after April
12 2nd between Jacqueline Beltran and Ramon DeLaCruz?

13 A It does, sir.

14 Q It does, so wouldn't the conversations be consistent
15 with either friendship or, you know, innocuous phone calls
16 between two parties?

17 A It would on the surface. However, there is really only
18 three, four dates maximum in which those telephone calls
19 occur. That's April 1st, April 2nd and the phone calls in
20 April 2nd only occur up to about mid-afternoon. And then
21 there is some more telephone activity between the two
22 cellular telephones in May. I don't remember the specific
23 date, so when you go and look then as investigator at the
24 travel activities of Jacqueline Beltran, who is the holder
25 of that cell phone, and she happens to be in Mexico on April

1 1st and 2nd and actually crosses just shortly after the
2 telephone calls terminate, as well as in Mexico in May, and
3 again, I don't remember the specific date, but it is exactly
4 consistent with the telephone calls, it leads a prudent
5 person to believe, given the situation that Mr. DeLaCruz is
6 communicating to the fugitive through his daughter.

7 Q And with reference to documents found in the household,
8 the Pacer documents, were any of those documents, documents
9 that were considered or would be considered confidential or
10 are those documents public information?

11 A It's my understanding that Pacer information is public
12 information.

13 Q Now, my last question, sir, relating to the allegation
14 that my client is involved in the transport of the 1600
15 pounds of marijuana, more or less, where are these
16 estimates, how are the estimates being gathered?

17 A Well, when Mr. Martinez asked that question, the amount
18 I threw out was 60,000. That amount --

19 Q Oh, it was 60,000, sorry.

20 A Yes, sir. That amount is an estimate that is based on
21 the information received from confidential sources of
22 information and calculations that were made based on that
23 information in the duration of the conspiracy. It would not
24 be possible for me to estimate the amount of marijuana that
25 your Defendant would have been responsible.

1 It's safe to say, I would assume that he didn't
2 participate in all 60,000 but then I don't know. Evidence
3 will show this is a very prolific smuggling organization.
4 They used a lot of trailers, horse trailers, flatbed
5 trailers, and they ran a lot of loads as evidenced by
6 electronic surveillance at checkpoints as evidenced by
7 confidential source information, as evidenced by law
8 enforcement interdictions that have occurred throughout
9 Texas.

10 The information would indicate that your client
11 participated within that conspiracy, but on how many loads,
12 I can't say, sir. It is definitely in excess of the 1000
13 kilograms that the Indictment states. I say, far in excess.

14 Q But his role was not that of a leader, is that your
15 position, that he led this organization somehow? That's not
16 what I glean from what you shared.

17 A He was not the leader of the Beltran organization but
18 it's clear from corroborator information that when meetings
19 took place regarding how a load was going to be ripped, when
20 it was going to be ripped, Mr. DeLaCruz was the individual
21 that was in charge of those decisions.

22 Q Well, when you say "meetings," meetings with law
23 enforcement or meetings --?

24 A No, sir, these were meetings with the rip crew.

25 MR. GUERRERO: I'll pass the witness, Judge.

1 THE COURT: Anything further, Mr. Martinez?

2 MR. MARTINEZ: No, Your Honor.

3 THE COURT: Thank you for your testimony.

4 THE WITNESS: Yes, Judge.

5 THE COURT: You can step down.

6 (Witness steps down.)

7 THE COURT: Mr. Martinez, do you have any further
8 witnesses?

9 MR. MARTINEZ: No, Your Honor.

10 THE COURT: All right, Mr. Guerrero, do you have
11 any witnesses on the issue of detention?

12 MR. GUERRERO: Yes, Your Honor, I have Mrs. Ima
13 Garcia, a longtime friend of the family, resident of Rio
14 Grande City for over 40 years. I'd like to have her sworn
15 in as a witness.

16 THE COURT: Okay. What was her name again?

17 MR. GUERRERO: Ima Garcia.

18 THE COURT: Ms. Garcia, if you could please
19 approach the witness stand on this side over here. You can
20 take your oath when you get to the Kleenex box there, and
21 then after that, you may have your seat.

22 THE CLERK: Please raise your right hand?

23 (Witness sworn.)

24 THE WITNESS: I do.

25 THE CLERK: Please come forward.

1 THE COURT: You can walk up around this way and
2 watch your step because you are stepping up.

3 MR. GUERRERO: I apologize, Judge. I'm so
4 accustomed to being in McAllen and we sit over there.

5 THE COURT: Understood, it's fine. You'll get used
6 to it here, shortly.

7 DIRECT EXAMINATION OF IMA GARCIA

8 BY MR. GUERRERO:

9 Q Ms. Garcia, can you state your name and address for the
10 Record?

11 A Ima Garcia, physical address is XXXX XXXX XXXXXXXX XX,
12 Rio Grande City.

13 Q Okay, and Ms. Garcia, how are you employed?

14 A I work at a law firm.

15 Q Let's talk with the DeLaCruz family. How long have you
16 known the DeLaCruz family?

17 A Over 40 years.

18 Q Okay, how long have you lived in Rio Grande City?

19 A Since 1970.

20 Q 1970, and you got married in Rio Grande, right?

21 A Starr County.

22 Q Starr County, Rio Grande City. And do you know
23 Mr. Ramon DeLaCruz, first?

24 A Yes.

25 Q Okay, and just for the Court's information, how would

1 you describe Ramon DeLaCruz, in brief words?

2 A He's a decent person. He's truthful and he's a caring
3 person.

4 Q And during the time that you've known him, do you know
5 about his career, what type of career he picked?

6 A I know that he's been in law enforcement for quite a
7 while.

8 Q Okay, and his general reputation in the community, how
9 would you describe that for the Court?

10 A He's well liked. He's respected.

11 Q Okay, does he have a family of his own?

12 A He does.

13 Q And do you know how many children does he have?

14 A Well, the household, he's got a set of twins which are
15 boys.

16 Q Yes.

17 A And he's got an older son, and then there's two other
18 -- well, there were two other children living in the
19 household. One is married now.

20 Q Okay, and Mr. Ramon DeLaCruz, as far as you know,
21 provides for that family, is that correct?

22 A He does.

23 Q He's married to Norma DeLaCruz?

24 A Yes.

25 Q And when you say there were two other children, those

1 are Norma's children that are in the household?

2 A Yes, from a previous marriage.

3 Q From a previous marriage. Mr. Ramon DeLaCruz, do you
4 know whether he has family in Mexico?

5 A No, I'm not aware of any family in Mexico.

6 Q So, he basically has no ties to Mexico?

7 A No, not all that I know of, no.

8 Q And so far as his family, his extended family, how many
9 brothers and sisters does he have?

10 A He's got sisters.

11 Q How many sisters does he have?

12 A There are five.

13 Q Five sisters. Wow. And where do they live, if you
14 know?

15 A They live in the vicinity, Garciasville.

16 Q Garciasville?

17 A Uh-huh.

18 Q Which is pretty much just down the road?

19 A About 8 miles east of Rio Grande.

20 Q And so it's considered part of Starr County?

21 A Correct.

22 Q And does his father and mother still live there?

23 A Yes.

24 Q Ms. Garcia, is there any reason that you know of that
25 you would be concerned that Ramon DeLaCruz would not make

1 Court appearances?

2 A No, I'm sure he would.

3 Q Or, for some reason decide he was not going to go ahead
4 and show up and take flight? Is there anything that would
5 cause you --

6 A No concern at all, no.

7 Q Okay.

8 MR. GUERRERO: I'll pass the witness, Judge.

9 MR. MARTINEZ: No questions, Your Honor.

10 THE COURT: Ms. Garcia, all right, thank you for
11 your testimony. You can step down.

12 (Witness steps down.)

13 THE COURT: Mr. Guerrero, any further witnesses?

14 MR. GUERRERO: I'll be asking Mr. Ramon DeLaCruz's
15 aunt to step forward.

16 THE COURT: Okay, and her last name is?

17 MR. GUERRERO: Mrs. Rebecca Saenz.

18 THE COURT: Ms. Saenz, if you could step forward,
19 please?

20 THE CLERK: Please raise your right hand?

21 (Witness sworn.)

22 THE WITNESS: I do.

23 THE CLERK: Please come forward?

24 DIRECT EXAMINATION OF REBECCA SAENZ

25 BY MR. GUERRERO:

1 Q Mrs. Saenz, good afternoon. Can you state your full
2 name and address for the Record?

3 A Rebecca F. Saenz, XXX XXXXXXX XXXXX, Rio Grande City,
4 Texas.

5 Q And what's your relationship to Ramon DeLaCruz?

6 A I'm his Aunt.

7 Q And, of course, you've known him since he was a baby?

8 A Yes.

9 Q Did you ever have an opportunity to take care of him?

10 A Yes.

11 Q And how old was he when you were taking care of him?

12 A A baby. I was 10. He was born when I was 10, so.

13 Q So, you are his Aunt. You were participating in his
14 care. Is the DeLaCruz family, is that the way you guys are,
15 real tightknit?

16 A We are.

17 Q Okay, so everybody is just as you see right there.
18 Everyone gathers around to help a member of the family. Is
19 that correct?

20 A Yes, yes we do.

21 Q Now, does the Cruz family have family in Mexico?

22 A No, not that I know of.

23 Q Okay, so the entire family is there in the Rio Grande
24 City area?

25 A Yes.

1 Q Now, describe for the Court, in your opinion, your
2 nephew's character or way of being?

3 A He's a good father and a good provider. He was always
4 working, never known to get in any issues or any problems.

5 Q Is the type of person that makes sure he stays around
6 to take care of his family?

7 A Oh, yes.

8 Q How many children does Ramon have?

9 A He has three of his own and two stepchildren.

10 Q Okay, and he's got his twins, of course. How old are
11 the twins?

12 A The twins are three.

13 Q Okay, and the --

14 A His older boy is 12, I mean, 13.

15 Q And he provides for them?

16 A Yes, yes, he does.

17 Q And you do believe that Ramon is the type of person
18 that would not show up for Court Hearings?

19 A No, sir.

20 Q Okay. Do you believe that if he's asked to show up, he
21 will show up?

22 A He will.

23 Q Okay, and you as a family member, are you willing to
24 also sign, maybe not as a surety, but as a responsible third
25 party for Ramon DeLaCruz?

1 A Yes, sir.

2 Q Now, a responsible third party means you got to be just
3 that, make sure he knows of the settings, and make sure he
4 shows up. You understand this responsibility?

5 A Yes.

6 Q As far as Ramon's behavior with his own children, how
7 would you describe that for the Court?

8 A Good. He was a good father, like I said.

9 Q Okay, does he have any, and I know I'm asking a lot of
10 his Aunt, does he have any alcohol issues, drug issues?

11 A No, not that I know of, no.

12 Q Has he ever appeared to you to be as it's described
13 here by the case agent, you know, like if he's on some
14 substance that he shouldn't be on?

15 A Never.

16 Q Never, okay. Do you still communicate pretty regularly
17 with him?

18 A Well, not now, but when we would get together every
19 other weekend as a family.

20 Q And you expect to have the same type of pattern, every
21 other weekend you'll get together, so you will be able to
22 actually keep an eye on him?

23 A Yes, sir.

24 Q Okay.

25 MR. GUERRERO: I'll pass the witness, Judge.

1 THE COURT: Okay.

2 CROSS-EXAMINATION OF IMA GARCIA

3 BY MR. MARTINEZ:

4 Q Just one question, Mrs. Saenz, do you know whether or
5 not, his wife has any family in Mexico?

6 A I don't know.

7 MR. MARTINEZ: No further questions, Your Honor.

8 THE COURT: I have a question.

9 Does anyone in the family in Mr. DeLaCruz's family,
10 have any drug trafficking convictions?

11 THE WITNESS: Not that I know of.

12 THE COURT: Not that you know of. Okay.

13 All right, thank you for testimony. You may step
14 down.

15 Is there anything else, Mr. Guerrero?

16 MR. GUERRERO: Nothing else, Your Honor.

17 THE COURT: Argument from the Government?

18 You may step down, I'm sorry.

19 THE WITNESS: Sorry.

20 (Witness steps down.)

21 THE COURT: Go ahead.

22 MR. MARTINEZ: Yes, Your Honor, in reference to
23 this particular case, this is a case that obviously spans
24 several areas, as indicated in the Indictment. It is the
25 Government's position that this Defendant does pose a danger

1 to the community. This case is a unique case in that
2 involves, unfortunately, a former law enforcement officer,
3 and there is a great aspect of public corruption in this
4 particular case as testified to you by the Agent in this
5 case.

6 Specifically, we know from the testimony, that this
7 Defendant has provided law enforcement-issued radios to drug
8 traffickers. We know that these radios are important because
9 they allow individuals to listen to the communications of
10 law enforcement.

11 He was paid for his services in exchange for
12 marijuana which he then would sell that marijuana. He has
13 personally acted as a scout for load vehicles, and what that
14 means is that he would go out in his police-issued vehicle
15 and he would make sure that the drug loads would make it so
16 that no other law enforcement official would pull over those
17 vehicles.

18 But more importantly, and an indication of the
19 danger to the community, he was involved in ripping loads.
20 In other words, he was involved as using his authority as a
21 law enforcement official to pull over vehicles that had
22 narcotics in them and stealing those loads as a very
23 dangerous act, and you have an armed law enforcement
24 individual pulling over drug traffickers and more than
25 likely armed themselves.

1 We also know that we have an individual who
2 falsified a report, Your Honor. That individual was stealing
3 drugs, falsifying reports, violating the public trust and
4 was of great concern to the Government, and you have an
5 individual who had the execution of a search warrant by a
6 joint federal and state law enforcement officials with the
7 HIDTA taskforce. He is actively recording the communications
8 of other law enforcement officials, thereby informing the
9 drug trafficking organization of the identity of these law
10 enforcement officials which is clearly a danger to the law
11 enforcement community.

12 And let us not kid each other, we're dealing with a
13 drug trafficking organization that has ties to the Gulf
14 Cartel. You don't need an Agent to tell you this, Your
15 Honor. The Gulf Cartel is an organization that deals in
16 kidnapping, murder, drug trafficking, an incredibly
17 dangerous organization that has unfortunately, as we now
18 know, weaved its way into the American public.

19 But we also have a Defendant who we know is
20 assisting a fugitive of the law, Mr. Ramiro Beltran, Sr. We
21 know, or have suspicion to believe that Mr. Beltran is in
22 the country of Mexico, and this Defendant is assisting him.

23 And it's important to note that this assisting of
24 this fugitive was as early as April or May of this year.
25 And how do we know that? Look at the phone tolls. We know

1 that whenever Jacqueline Beltran is in Mexico, who is
2 calling her? This Defendant. He's calling her presumably,
3 as the Agent testified, to be able to communicate with
4 Mr. Beltran, Sr., and what other information do we have? We
5 have the Pacer report. Sure, these aren't still documents
6 but they are documents which are dealing with Mr. Beltran,
7 Sr.'s, case as is ongoing in Federal Court, presumably as
8 the Agent testified, I think he used a smart phone, which is
9 prudent to connect the dots that whenever he's calling
10 Jacqueline, while she's in Mexico, he's clearly providing
11 information to Mr. Beltran, Sr.

12 We also know that this Defendant was involved in
13 the destruction of evidence. We have law enforcement
14 executing a search warrant at a ranch. We did locate the
15 magazines for the AR-15's and the tactical gear buried in
16 the bunker, but nonetheless there are weapons used in a
17 murder that we have co-operators indicating that this
18 Defendant showed up, took those weapons and presumably
19 destroyed them, thereby effecting the investigation
20 involving the kidnapping and murder of that case.

21 Your Honor, the Defendant is also a target, as
22 testified by the Defendant in a cocaine conspiracy as an
23 ongoing investigation that he is now aware of. He is now
24 aware that apart from this drug case, he is being looked at
25 for a cocaine case. And that leads me into the flight risk

1 area, Your Honor.

2 This is a presumption case. This Defendant is
3 looking at 10 years in federal prison, but the reality is
4 he's looking at a whole lot more because of the 60,000 pound
5 of marijuana that had been attributed to him. He's looking
6 at a lot of enhancements because of the public corruption
7 issues and the abuse of authority that he has exercised in.
8 He now knows that he's looking at a significant amount of
9 time.

10 Your Honor, we also have evidence as to the
11 strength of this case for this Defendant. We have 13 co-
12 operators, 8 of whom are pointing the finger at this
13 Defendant, saying that he was involved in this organization.
14 We have phone tolls, electronic surveillance. The
15 conspiracy has spanned several years.

16 We also have evidence, Your Honor, of the
17 Defendant's own drug use as provided by the cooperators
18 involved in this investigation. We have individuals saying
19 that, not only did he hang out with drug dealers, he is
20 running loads for drug dealers. He is ripping loads for
21 drug dealers. He is using narcotics while he is doing this,
22 Your Honor. And we know his wife has ties to the country of
23 Mexico as testified to you by the Agent in this particular
24 case.

25 So I feel I have to say this, Your Honor, this is a

1 very serious case, and the Defendant is looking at a lot of
2 time. He is not only a danger to the community as a whole
3 in South Texas, he is a danger to law enforcement community,
4 and I'll remind the Court that the law enforcement official
5 who testified said that Mr. Beltran, Sr., is calling him to
6 threaten him, Your Honor. Your Honor, he's not only a
7 flight risk, but he's a danger to the community and we're
8 going to ask that he be detained.

9 THE COURT: Okay.

10 Mr. Guerrero, you may proceed.

11 MR. GUERRERO: Well, Judge, do I proceed with the
12 remaining witnesses or do I address the Court?

13 THE COURT: I thought you were done. I thought you
14 said you said you didn't have anything else.

15 MR. GUERRERO: Well, that particular witness,
16 actually --

17 THE COURT: Why don't you proffer what you have
18 left?

19 MR. GUERRERO: Well, Your Honor, if I'm allowed to
20 bring these witnesses, Rebecca Verdad, Cynthia DeLaCruz and
21 Cynthia Laura DeLaCruz, friend of the family Mrs. Rebecca
22 Vera, Cynthia DeLaCruz, his sister, and Cynthia Laura
23 DeLaCruz, his mom, they would sign off on a co-surety. Not
24 only would you hear about the co-surety, you would hear and
25 you would get described a young man who's got four different

1 jobs. You are talking about a young man who worked for the
2 Department, worked as security at What-a-Burger, worked at
3 different jobs just to make sure he was there to support his
4 family. He's got several good reasons to not take flight and
5 those are the three children he takes care of. He's got some
6 really cute little twins and he's got another child I've
7 never had the pleasure of meeting, but I've had the pleasure
8 of meeting the two kids, beautiful children. There's no
9 reason why this man would run. This man will take care and
10 own up to his responsibilities.

11 I would also proffer to the Court the following. I
12 will proffer, and I've shared the proffer with opposing
13 counsel of the Government today. If the Court would like to
14 examine, there are certificates after certificate just
15 reflecting his diligence as a law enforcement officer.
16 Unfortunately, --

17 THE COURT: Are you offering these just for my
18 review, or are you offering them as an Exhibit?

19 MR. GUERRERO: I'm offering them as an Exhibit,
20 Judge.

21 THE COURT: Okay, so is there any objection to the
22 Defendant's Exhibit Number 1, which is a series of exhibits
23 relating to the Defendant Ramon DeLaCruz, Jr.?

24 MR. MARTINEZ: No objection, Your Honor.

25 THE COURT: Okay, Defendant's 1 is admitted.

1 Kendra, do you have a sticker? All right.

2 You may continue, Mr. Guerrero.

3 MR. GUERRERO: Judge, his combined salaries with
4 his spouse, he has to meet obligations that are pending, his
5 mortgage. He is going to make arrangements to go ahead and
6 get that taken care of. Judge, he'll have to spend some
7 time in the prison system. He's got a 16-acre tract and he
8 needs to go out and liquidate so that he can try to go ahead
9 and leave something for his family. He's got to support his
10 family. It is all clearly stated in the Pre-trial services
11 report.

12 We well know, and as a practitioner for many years
13 that all of these, even though they are very serious
14 allegations, remain allegations and my client remains
15 innocent. He's got not the burden of proof but he has the
16 burden at least to show the Court that he's not a risk of
17 flight, which I think really clearly was indicated by the
18 ties to the community, his responsibilities in the
19 community, his record of -- he's got no criminal history.
20 Otherwise, he would never be a peace officer.

21 And also, whether he truly poses a danger to the
22 community, I mean, you are looking at a young man who is
23 going to have a series of safeguards that the Court can
24 fashion to assure that not only is he responsible with a
25 bond, but he also will not have a passport. He has to

1 surrender all his weapons. His house is going to be cleared
2 of any weapons. He is going to be dictated to no drug use.
3 The Court well knows that he will also have a global
4 positioning satellite monitoring device on his ankle to make
5 sure everybody knows where he's at all the time and his
6 restriction is going to be to his house, and as he has
7 always been taking care of his home.

8 Most of the activity alleged by the Government is
9 2010, 2011. This recent allegation. This cellular
10 communication with Jacqueline Beltran as of April 1st and
11 2nd, 2016, while Jacqueline was allegedly in Mexico has to
12 do with things that are not even related to this case. The
13 communication continued in May of 2016 is consistent with
14 two people catching up with whatever things they wanted to
15 catch up about. Mrs. Beltran, Jacqueline Beltran obviously
16 he knew the Beltran family, got too close to them. Now,
17 he's got this problem he has to deal with but it's not
18 insurmountable, Judge.

19 The Government knows that cases like this, even
20 though they may be presumption cases can be worked out.

21 So, we're asking the Court to allow him to be on
22 bond with conditions as outlined by the Pretrial Services
23 recommendation, \$100,000 bond with a 10 percent deposit and
24 perhaps even add extra co-surety, but we're asking for bond
25 at this time.

1 THE COURT: Ms. Villarreal?

2 MS. VILLARREAL: Yes, Judge?

3 THE COURT: Has the position of United States
4 Probation changed on the bond recommendation?

5 MS. VILLARREAL: Your Honor, that report was
6 prepared in McAllen. I did not have the opportunity to
7 interview Mr. DeLaCruz, here, but after hearing this
8 testimony, I would not agree with that bond recommendation.

9 THE COURT: Okay. And so, is it Probation's
10 recommendation that I deny bond in Mr. DeLaCruz's case?

11 MS. VILLARREAL: Yes, Your Honor.

12 THE COURT: All right, got that on the Record.
13 Thank you.

14 Anything further, Mr. Martinez?

15 MR. MARTINEZ: Judge, just one more thing. I would
16 point to Defense Exhibit Number 1 as for danger to the
17 community. We have an individual that has been trained in
18 the use of force, firearms trained and tactical firearms
19 training. You have an individual before the Court who knows
20 and has been trained on using firearms and that is something
21 else for the Court's consideration.

22 With that, we would rest, Your Honor.

23 THE COURT: Okay.

24 Mr. DeLaCruz, if you could please approach the
25 podium?

1 DEFENDANT DE LA CRUZ: Yes, Your Honor.

2 THE COURT: First off, I find that the evidence
3 meets the probable cause standard in your case. You've been
4 indicted but also I've considered additional testimony
5 today, and the weight of the evidence is strong, and I'm
6 also in considering the nature and circumstances of the
7 offense, the offenses are serious, not just because they
8 involve drugs, but they also involve what I characterize as
9 crimes of violence, this term that has been used in Court of
10 ripping essentially amounts to robbery, and that's a serious
11 offense, and many times there are, you know, drug
12 trafficking combined with robbery, it places lives in
13 danger, and while not -- I understand so that you understand
14 the Exhibits that your attorney offered on your behalf
15 showed that you have had a significant amount of training.

16 And so, I'm not really trying to use those against
17 you, but the nature of the offense and some of the Exhibits
18 remind me of the seriousness of the offense, such as this
19 "Law Enforcement Code of Ethics," which drives really home
20 the seriousness of the alleged violations along with this
21 weapons training and tactical training and tactical firearms
22 training, really puts an exclamation point behind the
23 seriousness of the offense.

24 The case involves a lengthy conspiracy although
25 much of the criminal activity was maybe not historic but

1 several years ago, but it is relatively recent in the
2 evidence of the communication with the co-conspirator and
3 fugitive, Mr. Beltran, and also, while you are not alleged
4 to have been directly involved in this alleged murder, there
5 is strong evidence that you were involved in the disposition
6 of the property, and of course the case as I mentioned
7 involves direct allegations of corruption and abuse of
8 position of trust and assisting a fugitive. Those are all
9 matters that weigh heavily in not setting bond in your case.

10 However, the other things I have to consider are
11 your history and characteristics. You graduated from high
12 school. You have never been that I can see charged with a
13 criminal offense. You've never been convicted of a criminal
14 offense. You are a life-long resident of South Texas. You
15 are married. You have children. You have graduated from
16 high school. You have a supportive family who believes that
17 you are not a flight risk.

18 And the issue for me is whether or not conditions
19 can be set which will reasonably assure your appearance at
20 trial and the safety of the community. Probation initially
21 recommended that I set a bond in your case. After hearing
22 the evidence, the Probation Department has withdrawn that
23 recommendation. But in considering the Bail Reform Act and
24 the things that I must, I am going to set bond as originally
25 recommended by the United States Probation Office.

1 I am setting bond, and first off, I should say that
2 this is a high bond. It's a bond with a lot of conditions
3 and it is done so purposefully because of the concerns that
4 I've just raised and with the concerns that the Government
5 has raised.

6 I am setting a \$100,000 bond that is required to
7 have a 10 percent cash deposit. You are required to have a
8 co-surety or co-sureties who are solvent. That means that
9 they are on the hook for the full amount of the bond.

10 You have to have a third party custodian. That's
11 someone who is the eyes and the ears of the Court to make
12 sure that you are following the rules of your bond and that
13 third party custodian has to be approved by the United
14 States Probation.

15 You are ordered to submit to supervision by a
16 Federal Probation Officer at the United States courthouse in
17 McAllen, Texas. A condition of your bond is that you are
18 required to follow all of the instructions that your
19 Probation Officer gives you about your case.

20 Your travel is restricted to the McAllen division
21 of the Southern District of Texas. There is no travel to
22 Mexico. Your Probation Officer can give you permission to
23 travel outside of the McAllen division but if he or she
24 says, "No," then your lawyer would have to seek permission
25 of the Court. You are to maintain employment or be actively

1 looking for a job. You are not to work in the capacity as a
2 law enforcement officer or for any law enforcement agency,
3 or as a security guard. You are not to have any employment
4 either directly or indirectly with any law enforcement
5 entity or pseudo law enforcement entity, such as a security
6 guard company.

7 You are not to obtain a passport. Do you have a
8 passport?

9 DEFENDANT DE LA CRUZ: No, Your Honor.

10 THE COURT: You are not to have any contact
11 directly or indirectly with any person who might be a
12 witness in the case or a co-Defendant in the case or a
13 potential witness or a potential co-Defendant and that
14 includes, of course, Mr. Beltran, Mr. Beltran, Jr.,
15 Mr. Beltran's daughter or anyone else who might have
16 anything to do at all with this case. And that is either
17 directly or indirectly. That means no contact yourself,
18 through third parties or through social media or other
19 means.

20 You are not to possess any weapons. Do you have
21 any firearms in the house?

22 DEFENDANT DE LA CRUZ: Your Honor, I've been a law
23 enforcement officer for the past 14 years --

24 THE COURT: Okay, before you are released, those
25 firearms are to be removed from the house to the

1 satisfaction of the United States Probation Office.

2 I'm ordering that you not use alcohol while on bond
3 and I'm also ordering that you not use or possess any
4 illegal drugs or narcotic drugs and that you are ordered to
5 submit to periodic drug testing.

6 Based on the information that's provided at Court,
7 in Court today, I'm also ordering that you participate in
8 substance abuse counseling and treatment as directed by your
9 Probation Officer. I'm also requiring that you submit to
10 home detention, which means that you are restricted to your
11 residence at all times except for employment, education,
12 religious services, medical appointments, substance abuse,
13 and mental health counseling, attorney visits, Court
14 appearances, Court-ordered obligations, and other activities
15 approved by your Probation Office. And this includes active
16 GPS monitoring.

17 With regard to your travel, Mr. Guerrero and
18 Mr. Ramirez, are you-all in McAllen?

19 MR. RAMIREZ: Rio Grande City.

20 THE COURT: Rio Grande City. Okay, so that would
21 not present a problem, but Mr. DeLaCruz you, of course, may
22 come to Victoria for your Court appearances or Corpus
23 Christi if you have any Court appearances here. But you
24 need to tell your Probation Officer when you are traveling
25 for your Court appearances.

1 Also, if you have any contact with law enforcement
2 officers, such as if you are arrested or questioned, or
3 searched you are to report that contact to your probation
4 officer as soon as possible.

5 Any further requests from Probation -- I'm sorry,
6 from Pretrial?

7 MS. VILLARREAL: No, Your Honor.

8 THE COURT: And without waiving your objection to
9 my setting bond, Mr. Martinez do you have any further
10 requests?

11 MR. MARTINEZ: No further requests in reference to
12 the bond. However, the United States would move to file
13 this Motion of Stay with the Court.

14 THE COURT: Okay.

15 MR. MARTINEZ: I've provided copies to Defense
16 Counsel.

17 THE COURT: Okay, that's fine. I'll get to that in
18 a moment.

19 Now, Mr. DeLaCruz, do you understand the conditions
20 of the bond that I set in your case?

21 DEFENDANT DE LA CRUZ: Yes, Your Honor.

22 THE COURT: All right, I need to advise you that if
23 you violate any of the conditions of the bond that I set,
24 your bond can be revoked and you can be ordered back into
25 custody.

1 Do you understand that?

2 DEFENDANT DE LA CRUZ: Yes, Your Honor.

3 THE COURT: Also, when you are released, if you
4 don't show up to Court, there are a number of things that
5 very likely will happen. One is that you could be, if you
6 willfully failed to appear for any Court setting, you could
7 be charged with another federal crime called "Failure to
8 Appear."

9 Do you understand?

10 DEFENDANT DE LA CRUZ: Yes, Your Honor.

11 THE COURT: And also for those persons who sign
12 your bond on your behalf, if you fail to show up to Court,
13 you could lose the -- or your family could lose the \$10,000
14 and along with the \$100,000 bond. That means that the
15 Government could seek a judgment against your co-signers for
16 \$100,000.

17 Do you understand that?

18 DEFENDANT DE LA CRUZ: Yes, Your Honor.

19 THE COURT: And whatever your situation is today,
20 as you stand before me today, if you do not show up to
21 Court, your situation will be significantly worse.

22 Do you understand that?

23 DEFENDANT DE LA CRUZ: Yes, Your Honor.

24 THE COURT: Now, a couple of things. First, the
25 Government has submitted this Motion to Stay the Release of

1 Mr. DeLaCruz, which means Mr. DeLaCruz, the Government, as
2 is their right, they are appealing my setting bond in your
3 case, to Judge Rainey, and they are seeking that your
4 release from custody be stayed until Judge Rainey has an
5 opportunity to review this decision, and it's only
6 appropriate that I grant that Motion, and give the parties
7 an opportunity to present this matter to Judge Rainey.

8 So, I am granting the Government's Motion to Stay
9 and Order that you not be released until Judge Rainey has
10 had an opportunity to review my decision, and after that
11 decision is made your attorneys will notify you of the
12 outcome of that appeal.

13 And let me see, there's a couple of other things.
14 One, with regard to this potential conflict of interest, I
15 believe and am satisfied that having the Hearing today was
16 the right thing to do for purposes of keeping this case on
17 track and moving forward, but I also believe that this is
18 the type of thing that should be resolved sooner than later.
19 So I am directing the Government to file its motion, if any,
20 to disqualify or at least however the Government wants to
21 phrase the potential conflict of interest.

22 Do you think a week would be a long enough time for
23 the Government to file that motion, and you may confer with
24 Ms. Booth who has made an appearance?

25 MR. MARTINEZ: Yes, Your Honor, we believe a week

1 is sufficient.

2 THE COURT: Okay, so file that motion within a week
3 just so that Judge Rainey can have it considered before, you
4 know, in a timely fashion and so that the Defendants can
5 obviously file their response to the motion.

6 So, we've taken care of the Arraignment. We've
7 taken care of the Detention Hearing. It's stayed.

8 Mr. Guerrero, do you have anything further for
9 today's purposes?

10 MR. GUERRERO: Nothing further, Your Honor.

11 THE COURT: Okay. Anything further from the
12 Government, Mr. Martinez?

13 MR. MARTINEZ: No, Your Honor. The Motion to Stay,
14 the response that the Government is going to file. Can we
15 file it in a week, and the reason I ask for a week is I know
16 it is Judge Rainey's procedure to request the transcript
17 from this Hearing.

18 THE COURT: I'm aware of that, too. It's going to
19 take a while, so you are going to probably order the
20 transcript today and get it, get the Court Reporter typing
21 on it.

22 MR. MARTINEZ: Yes, Your Honor.

23 THE COURT: Okay, all right. Understood. I think
24 that's sufficient time.

25 All right, well thank you-all for your appearances.

1 Mr. DeLaCruz may be remanded.

2 DEFENDANT DE LA CRUZ: Thank you, Your Honor.

3 THE COURT: You're welcome.

4 (Proceedings adjourned at 3:40 p.m.)

5 * * * * *

6 I certify that the foregoing is a correct
7 transcript to the best of my ability produced from the
8 electronic sound recording of the proceedings in the above-
9 entitled matter.

10 /S/ MARY D. HENRY

11 CERTIFIED BY THE AMERICAN ASSOCIATION OF

12 ELECTRONIC REPORTERS AND TRANSCRIBERS, CET**D-337

13 JUDICIAL TRANSCRIBERS OF TEXAS, LLC

14 JTT TRANSCRIPT #55851

15 DATE: OCTOBER 17, 2016

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